

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

ORIGINAL

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DEPUTY CLERK

BENNIE P. WASHINGTON  
Plaintiff

v.

CONCENTRA Clinic  
Defendant

**3-15CV-3698N**  
Civil Action No.

COMPLAINT

I WENT IN CONCENTRA CLINIC IN THE PLANO OFFICE FOR A REGULARLY DOT PHYSICAL AND DOCTOR THAT SAW ME ON THAT DAY LIE TO ME ABOUT THE DOT TEST HAVE CHANGED BY ON THE PAPERWORK SHE SAID SHE DIDN'T CHECK FOR THOSE THINGS THAT SHE CHECK ME FOR SHE TOUCH ME CLOSE TO MY PRIVATE PARTS AND SHE BENT OVER SO SHE COULD SEE SHE ASKED ME TO PULL DOWN MY UNDERWEAR THAT'S NOT A PART OF DOT TEST. I HAD TWO ATTORNEYS THAT DIDN'T DO ANYTHING ON MY CASES.

\* Attach additional pages as needed.

Date 11-17-15  
Signature Bennie P. Washington  
Print Name BENNIE P. WASHINGTON  
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City, State, Zip DALLAS TX 75228  
Telephone (469) 316-5117

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WILSON ELZER - MASKOWITZ EDELMAN & DICKER LLP.  
Lawyer Linda STIMMEL

1 IN RE: BENNIE WASHINGTON

2

3 DATE: FRIDAY, JULY 25, 2014

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COPY

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ORAL DEPOSITION OF

14

BENNIE WASHINGTON

15

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ORAL DEPOSITION OF BENNIE WASHINGTON,

17 produced as a witness at the instance of the Defendant,  
18 and duly sworn, was taken in the above-styled

19 and -numbered cause on the 25th day of July, 2014, from

20 10:01 a.m. to 10:37 a.m., before Natasha Spoerl, a CSR

21 in and for the State of Texas, reported by machine

22 shorthand at the offices of Schulman Mathias, P.L.L.C.,

23 8390 LBJ Freeway, Suite 500, Dallas, Texas, pursuant to

24 the Texas Rules of Civil Procedure and the provisions

25 stated on the record or attached hereto.

A P P E A R A N C E S

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I N D E X

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1 P R O C E E D I N G S

2 (The witness was sworn by court reporter.)

3 BENNIE WASHINGTON,

4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 BY MS. STIMMEL:

7 Q. Hi. I just want to introduce myself again. My  
8 name is Linda Stimmel. I'm an attorney. I'm here today  
9 representing Concentra and the physicians at Concentra.

10 This is not a lawsuit, and your attorney  
11 has been kind enough to allow me to take a short pre --  
12 potentially pre-lawsuit deposition. And I just want to  
13 let you and your attorney know there's just not a lot of  
14 information in the records. I can't really tell what --  
15 you allege has happened.

16 So what I want to do today Ms. Washington  
17 is just try to get some information, because I don't  
18 know much, that way we can assess the case. Do you  
19 understand that?

20 A. Uh-huh.

21 Q. And you'll need to say yes or no.

22 A. I understand.

23 MS. STIMMEL: Okay. Also I want to say if  
24 you agree, Counsel, that by taking this deposition I'm  
25 not waiving any of my rights if this goes into lawsuit.

1 I still have my time for deposition discovery as well as  
2 you do. Is that agreeable?

3 MR. MATHIAS: Understood.

4 MS. STIMMEL: Thank you.

5 Q. (BY MS. STIMMEL) If you'll just state your  
6 full legal name for the record, please.

7 A. Bennie Pipkins Washington.

8 Q. Can you spell that middle name?

9 A. P-I-P-K-I-N-S.

10 Q. Okay. Thank you. Have you ever had a  
11 deposition before?

12 A. Yes.

13 Q. Okay. When was that?

14 A. I don't remember how long it's been but it was  
15 like back in the 80s or the 90s.

16 Q. A long time ago?

17 A. Yeah.

18 Q. And what was the reason for that? Were you a  
19 party to a lawsuit?

20 A. Car wreck.

21 Q. Okay. Any other depositions besides that one?

22 A. This would be the first one since then.

23 Q. Okay. Thank you. I believe you know Deanna  
24 Jones.

25 A. Yes, I do.

1 Q. Are you aware that I took her deposition a  
2 couple of weeks ago?

3 A. No, I'm not.

4 Q. Okay. I did the same thing with Ms. Jones to  
5 try to learn some information from Ms. Jones.

6 When is the last time you talked to Ms.  
7 Jones about the issues that you're concerned with in  
8 this doctor's actions in this case?

9 A. When?

10 Q. Yes, ma'am.

11 A. Probably I'd say back in maybe March I guess.

12 Q. Okay. Can you tell me what the gist of that  
13 conversation was, basically just kind of what y'all  
14 talked about?

15 A. It was when we were in session with the  
16 psychiatrist.

17 Q. Okay. And I have those records; correct? You  
18 don't know but I do.

19 How many sessions did you go to and  
20 actually participate in the same session with Deanna?

21 A. From my understanding it was four.

22 Q. All four of them were with her?

23 A. Yes.

24 Q. Can you tell me why you all participated  
25 together? I saw that I think Deanna had a session by



1 herself. Why did y'all do joint therapy sessions  
2 together?

3 A. Since we did it together it's because it kind  
4 of like happened to us at the same time. She just  
5 separated it -- she talked to us individually but we did  
6 have it together.

7 Q. But you did talk to the therapist together as  
8 well?

9 A. Yes.

10 Q. Just for the record, because we want this  
11 clear, when you're saying because it happened to us  
12 together, what do you mean? What happened to you?

13 A. The same thing happened to us.

14 Q. This is the allegations about the doctor?

15 A. Yes.

16 Q. Okay. I just want to get a little bit of short  
17 background about you and then I'm going to ask you about  
18 the incident. Okay?

19 A. All right.

20 Q. Can you talk to me about your education? What  
21 education have you had?

22 A. I got a GED.

23 Q. Okay.

24 A. And some training.

25 Q. And when you say training, what kind of

1 training?

2 A. I took a Word Processing and data entry.

3 Q. When did you get your GED?

4 A. I got my GED back in '88, July of '88. No, it  
5 wasn't. Hold on. May because my daughter was born in  
6 July.

7 Q. Okay. What is your date of birth?

8 A. January 6, 1966.

9 Q. Okay. And what is your social security number?

10 A.

11 Q. What is your current address?

12 A. 242 Highland Village Drive, Mesquite, Texas  
13 75149.

14 Q. Thank you. Is that a home? Apartment? What  
15 is that?

16 A. It's a town home.

17 Q. And do you live in that town home with anyone  
18 else?

19 A. Yes.

20 Q. Who is that?

21 A. My boyfriend.

22 Q. Okay. What's his name?

23 A. Elvis Smith.

24 Q. Okay. What does Elvis do for a living?

25 A. He's an assistant at Plano ISD.

1 Q. Okay. When you say assistant, do you mean in  
2 one of the schools? Are you a bus driver?

3 A. Yes.

4 Q. Does he work in the bus driving section you  
5 mean or --

6 A. Yes, he works on the bus with the driver  
7 assisting with the kids.

8 Q. And you mentioned your daughter. How many  
9 children do you have?

10 A. I have three kids, two girls and a boy.

11 Q. What are their ages?

12 A. 32, 29, and the other one will be 26. They're  
13 all three years apart.

14 Q. Could you give me their names, please?

15 A. Latoya Reese. Well, she got married. I think  
16 it's Williams. Alan Pipkins, and then Keena Criss.

17 Q. Have you been married before?

18 A. Yes.

19 Q. How many times?

20 A. Twice.

21 Q. Can you tell me the names of your ex-husband's?

22 A. Alan Pipkins, Sr. and Howard Washington, Jr.

23 Q. Okay. Are you still -- you're divorced  
24 currently; correct?

25 A. No.

1 Q. You're still married?

2 A. I'm a widow.

3 Q. Okay. Thank you. How long have you been a  
4 widow?

5 A. Since it's been I think 10 or 11 years. I kind  
6 of forgot.

7 Q. I'm just dying to say did you like Elvis's  
8 music?

9 A. Yes, I did.

10 Q. To have a boyfriend named Elvis you better like  
11 Elvis.

12 Let me talk just a little bit about your  
13 employment situation. How long have you been working  
14 with Plano ISD?

15 A. This is fixing to be my fourth year.

16 Q. Have you been a bus driver the entire time?

17 A. Yes.

18 Q. I didn't know if you started in a different  
19 position.

20 A. I did other things but bus driver is my main  
21 thing. That's how I basically make my money.

22 Q. Okay. Were you a bus driver for any company or  
23 any institution before Plano ISD?

24 A. Dallas County, Mesquite, Lancaster, Grand  
25 Prairie, a private school called Children First.

1 MR. MATHIAS: Can we go off the record for  
2 a second?

3 MS. STIMMEL: Of course.

4 (There was a short break taken.)

5 Q. (BY MS. STIMMEL) Go ahead. You wanted to  
6 clear up a question that I asked you?

7 A. Yes, about talking to Deanna. I had talked to  
8 her again but I don't remember exactly the date about  
9 this because I talked to her when I got rid of the  
10 lawyer and hired him.

11 Q. Okay.

12 A. So I don't remember what date that was.

13 Q. Is it okay if I ask why you got rid of the  
14 lawyer?

15 MR. MATHIAS: I would rather her not.

16 Q. (BY MS. STIMMEL) I'm not allowed and I don't  
17 want to know anything you talked about with your lawyer  
18 or your first lawyer so that was kind of a gray  
19 territory. But my understanding is you were originally  
20 represented in this matter by Brian Arnold; is that  
21 correct?

22 A. That's correct.

23 Q. And you changed attorneys approximately --  
24 we're sitting here today on July 25th, 2014. I think  
25 you changed attorneys less than a month ago; is that

1 correct?

2 MR. MATHIAS: I think it was May.

3 Q. (BY MS. STIMMEL) So two months ago?

4 A. Yeah it's been around that -- maybe about two.  
5 No more than three. I'm thinking it's been like two.

6 Q. Just to make clear from you, I didn't know when  
7 you did. I just got a letter from Mr. Arnold saying he  
8 no longer represented you when I was asking for  
9 depositions. So I knew that was --

10 A. I think it was in April or May when I let him  
11 go.

12 Q. Okay. Thank you. Okay. So we talked about  
13 your education. You were telling me that you've been a  
14 bus driver for many years it appears to be; correct?

15 A. Yes.

16 Q. And that is your main source of income;  
17 correct?

18 A. Yes.

19 Q. You said you had done other things. What are  
20 some of the other things you've done to generate income?

21 A. Home healthcare, working at department stores,  
22 whatever. Most of the time it was in between me driving  
23 the school bus. The school bus was always my main job.

24 Q. Okay. And, of course, you have the summers off  
25 on that; correct?

1 A. Not on all of them, but I still work the summer  
2 though.

3 Q. Okay. And these other companies that you  
4 worked for where you drove a school bus, did you always  
5 have to have this DOT examination every year?

6 A. Yes.

7 Q. When was the first time you went to this  
8 Concentra Plano clinic for your DOT exam?

9 A. I'm not sure the exact date but it had to be  
10 in -- sometime in 2012. I'm going to say probably once  
11 school was getting ready to be out or when it came back  
12 because I was somewhere else when I was hired. I think  
13 I went to CareNow. It wasn't them though at the time.

14 Q. And Ms. Washington, you said you were hired  
15 December 5th of what year?

16 A. December 5th of 2011.

17 Q. So the first year you went to another clinic  
18 for your DOT. So do you think you have been to the  
19 Concentra clinic for DOT exams three times including  
20 this one or is --

21 A. I don't remember the exact times because  
22 whenever we have to -- random or whatever, we've got to  
23 go so I didn't keep up with all of that. I got my  
24 paperwork and everything. I just don't remember because  
25 we never know when we're going to have to go.

1 Q. Okay. First of all tell me -- describe the  
2 physician that you're talking about you allege that was  
3 inappropriate. Talk to me about -- is it a man or a  
4 woman who was inappropriate?

5 A. It was a female.

6 Q. And is she African American?

7 A. Yes.

8 Q. Okay. Had you ever seen this doctor before,  
9 this time that you're talking about?

10 A. No.

11 Q. Okay. Let's just go ahead and talk about this  
12 so I can learn a little bit more. It appears from me  
13 reviewing the records Ms. Washington that you saw her --  
14 you went to the clinic two times about this particular  
15 DOT exam.

16 A. Yes, I did.

17 Q. Okay. And tell me about the first time. Did  
18 you go to that appointment by yourself?

19 A. Yes.

20 Q. Okay. And tell me how that went that very  
21 first time to try to get this new DOT?

22 A. The first time had to do with my blood  
23 pressure. I hadn't took my medicine for two days and so  
24 my blood pressure was kind of elevated. So he couldn't  
25 get it down so he gave me a letter to go see my regular



1 doctor or to come back the next day once my medicine --  
2 like, I took the medicine like 30 minutes before I went  
3 in. It wasn't enough time.

4 Q. And when you say he, is this a doctor you're  
5 talking about?

6 A. Yes, it was a man that I seen the day before  
7 because it was like two days in a row.

8 Q. So it's my understanding that, I think how it  
9 goes is the exam, once they find a particular problem,  
10 they don't finish the exam because they need you to fix  
11 whatever the issue is; correct?

12 A. It was blood pressure, yes.

13 Q. And you were requested because of some high  
14 blood pressure to bring back a note from your physician  
15 basically stating that you had it under control; is that  
16 right?

17 A. I came back the next day because I took the  
18 medicine.

19 Q. Okay. Did you ever go to see another physician  
20 and bring back a doctor's note?

21 A. No.

22 Q. So you gave just it more time for your medicine  
23 to kick in?

24 A. Yes.

25 Q. Now the next day when you went back, were you

1 with anybody else at that appointment?

2 A. No.

3 Q. Can you just walk me through what happened as  
4 you go to that appointment?

5 A. When I went in -- when they gave me her, we  
6 went in the room. When she came in, she told me to pull  
7 down my underwear.

8 Q. That's the first thing she said?

9 A. Yes.

10 Q. We're talking about -- do you know her name?

11 A. I guess it's something like Naomi something or  
12 whatever and I think it starts with an O.

13 Q. If it's the doctor I'm thinking about it's  
14 Ocho. Does that make sense? It's O-C-H --

15 A. I don't know. The writing is bad. So I really  
16 don't know what her name was, but I know she's African  
17 American.

18 Q. Okay. So an African American female doctor  
19 came into the room to do this exam the second day you  
20 came back, and the first thing she said to you was what  
21 exactly, ma'am?

22 A. Pull down my underwear.

23 Q. Is that what you said? I'd like to get  
24 exactly. Is that what she said?

25 A. She said pull down my underwear.

1 Q. Pull down your underwear?

2 A. Yes.

3 Q. Okay. And then what's the next thing that  
4 happened?

5 A. I asked her is this something new. She said  
6 she was checking for hernias and lymph nodes.

7 Q. Okay.

8 A. And I was just kind of like this don't seem  
9 right.

10 Q. And you said you were kind of like it doesn't  
11 seem right to you. You were thinking that?

12 A. Yes, because I never went through that before.  
13 I know what a DOT was supposed to be like.

14 Q. Okay. When you say I know what one's supposed  
15 to be like, it's because --

16 A. I was saying that in my mind.

17 Q. And in your mind were you basing that on that  
18 you've had several of these exams beforehand?

19 A. For like 20 years probably.

20 Q. Okay. And are you saying today that in all of  
21 the exams no one had ever checked for a hernia?

22 A. And lymph nodes, no.

23 Q. I want to get this right because I phrased it  
24 wrong. You're testifying today under oath that no one  
25 had ever examined you for a hernia in any prior DOT

1 exam; is that correct?

2 A. That's correct.

3 Q. Okay. And this was the first time this had  
4 happened to you; correct?

5 A. Yes.

6 Q. Okay. So let's go back. So this lady walked  
7 -- a female physician walks in. The first thing she  
8 says is pull down your underwear and then you said is  
9 this something new, and then she said I am checking for  
10 hernias and lymph nodes?

11 A. She said yes first before she said she was  
12 checking for that.

13 Q. Okay. She said yes it is basically; right? I  
14 am checking for hernias and lymph nodes. Is there  
15 anything else that you said to her? What's the next  
16 thing that happened?

17 A. I let her go ahead and finish, but the whole  
18 time when she was doing it I was just -- I didn't feel  
19 right. I was uncomfortable the whole time basically.

20 Q. Okay. Since we don't have a camera here I'd  
21 like you to describe so we can get it down exactly how  
22 she performed that exam. What she did, how she touched  
23 you, what happened when she was doing the exam for the  
24 hernia and lymph nodes. Can you tell us how that went?

25 A. She did most of the things that they were

1 supposed to do. It was just that part when she said  
2 pull down your underwear. And when I asked her was it  
3 new -- but that wasn't the only thing.

4 (The witness stands.)

5 THE WITNESS: She told me pull down my  
6 underwear. She was standing over to the side of me. I  
7 pulled my underwear down to where our panty line is.  
8 She said that wasn't down far enough. She said pull  
9 them down more. So I pulled them down more, and I was  
10 like okay. That's what made me really, really feel  
11 uncomfortable.

12 Q. (BY MS. STIMMEL) Okay. And so we're clear,  
13 you were nice enough to stand up. I appreciate you  
14 doing that to try to show me. You stood up and said  
15 that you pulled your underwear to probably like the  
16 bottom of your tummy.

17 A. Where our hair line starts, but I don't have  
18 any hair down there. So I pulled it down there and she  
19 turned around and she was like that's not far enough.  
20 So right here on my stomach -- and I'm not that big.  
21 Okay. My stomach is a little pudgy but not right now.

22 But she put her hand at the bottom part of  
23 my stomach. I don't know if it was her right hand or  
24 left hand, but she put it down here and she kind of like  
25 tilted and bent over.

1 Q. And did she tilt you and bend you over Ms.  
2 Washington or did she tilt and bend over?

3 A. She tilted and bent over to get a good look. I  
4 was standing up straight.

5 Q. Okay. And was your -- you're saying your whole  
6 vaginal area was exposed at that time?

7 A. You could see the split.

8 Q. Okay. What you showed us standing up, ma'am,  
9 was that you had your fingertips. You said her hand was  
10 -- and you showed like maybe three or four of her  
11 fingertips were touching down on your groin area; is  
12 that correct?

13 A. Might as well say, yeah.

14 Q. I don't want to put words in your mouth. I'm  
15 just trying to put it on this deposition so we can  
16 explain it. You tell me if there's a better way to  
17 explain it.

18 A. Well it's the bottom part of my stomach but  
19 it's still going towards my privacy. She wasn't even  
20 supposed to touch me and look like that anyway. Why was  
21 she bent over? It really, really bothered me more  
22 because she was a female instead of a male.

23 Q. And why is that?

24 A. She's not a man.

25 Q. Yeah.

1 A. Even though a man ain't touched me like that  
2 either but I'm just -- I felt uncomfortable.

3 Q. Okay. All right. Just so I'm clear, you stood  
4 and very kindly kind of showed us how far you pulled  
5 your panties down and that she touched with fingertips  
6 the area of your groin. I just want to make sure you're  
7 not saying she put her fingers anywhere in your vagina  
8 or on your vagina; is that correct?

9 A. No.

10 Q. Is that correct?

11 A. No, she did not put them in my vagina.

12 Q. Will you just make that statement again for the  
13 record?

14 A. No, she did not put it in my vagina.

15 Q. Just so it's clear, you're not saying this  
16 doctor -- strike that. This female African American  
17 doctor did not take her fingers and touch your vagina  
18 anywhere; is that correct?

19 A. That is correct.

20 Q. And this female African American doctor did not  
21 put her fingers inside your vagina; is that correct?

22 A. She did not.

23 Q. Okay. Her fingers were above your vagina kind  
24 of where our leg -- top of our leg, the groin area?

25 A. Close.

1 Q. Okay. And what bothered you in a way too was  
2 that she bent down and leaned over. It appeared to be  
3 that she wanted to see what she was examining; correct?

4 A. I can't tell you what she was looking for  
5 because I've never been did like that before.

6 Q. When she looked at your area and touched you  
7 with her fingers, did she say anything that you felt was  
8 inappropriate? Any words that was sexual in any way?

9 A. No, not that I can remember.

10 Q. Okay. Because this is important. If she said  
11 anything at all sexual I need to know.

12 A. Not that I can remember.

13 Q. Okay.

14 A. I had zoned everything out then because I was  
15 just worried about pulling my underwear down.

16 Q. Okay. And you testified, and I understand the  
17 main thing that bothered you you're saying -- is the  
18 main thing that bothered you the fact that it was a  
19 female touching you?

20 A. It's just not that. She's not my primary  
21 physician or she's not my gynecologist. You would  
22 expect that from one of them. She's not. And I know  
23 the guidelines from DOT and that's not it. I never had  
24 to pull my clothes up or down for nobody.

25 Q. Okay. Do you know -- have you ever been



1 examined for a hernia before?

2 A. No.

3 Q. Do you know what a hernia is generally just as  
4 a layperson not a medical person. Do you know what a  
5 hernia is?

6 A. No, I don't.

7 Q. Okay. So when you say you know the DOT  
8 guidelines, what do you mean?

9 A. They're only supposed to do like vital signs,  
10 check the ears, stuff like that, simple stuff and you're  
11 out of there. It was not pull your underwear down or  
12 let me check your breasts or none of those procedures.

13 Q. Did this lady ask to check your breasts?

14 A. No.

15 Q. Okay. So the focus of your concern and you  
16 seeing a lawyer is that what you just described to us  
17 the fact that the female asked you to pull your panties  
18 down and pull them further and that she touched you in  
19 the groin area that we were discussing; is that right?

20 A. That's correct.

21 Q. And there's no comments that she made that you  
22 thought were inappropriate; correct?

23 A. Not that I can remember.

24 Q. Okay. And did you say anything to her after  
25 the exam was performed?

1 A. No, I just felt uncomfortable.

2 Q. Okay. After she examined that area for the  
3 hernia, did you pull your panties back up?

4 A. Yes, I did.

5 Q. Okay. And what further happened in that exam?

6 A. That I remember she just finished the exam the  
7 regular way and I left. I still wasn't feeling good  
8 about it.

9 Q. So what happened when you left then? Did you  
10 call -- go to work and complain? Did you call back to  
11 Concentra? Tell me what you did.

12 A. I talked to my boyfriend about it when I got to  
13 the car what just happened because I expect doing  
14 something like that to be a test that you would do for a  
15 man. And I told him I felt really uncomfortable.

16 He said if you feel uncomfortable about it  
17 then talk to somebody about it. So I ended up calling  
18 my area director that next morning and asked did the DOT  
19 change, and he said not that he knew of. So I waited  
20 until that Monday and I called and talked to someone. I  
21 don't know who was the person that answered the phone,  
22 but I ended up getting somebody named Kerrie something  
23 from Concentra clinic.

24 And I told her when I get through talking  
25 to you I'm going to call DOT. She told me when I

1 explained it to her that that was -- I want to say it  
2 exactly how she said it. I told her what happened. She  
3 said that I was violated and that's a violation of DOT.  
4 That's exactly how she said it.

5 Q. It is very important that I find out the name  
6 of this lady. So you say you have it written down  
7 somewhere?

8 A. It's in there. But on there I also told her  
9 that I wasn't the only person it had happened to, that  
10 Deanna was going to call. She never would answer the  
11 phone for her. She called like four times I think.  
12 Kerrie Robinson: (972) 364-8108.

13 Q. Kerrie Robertson?

14 A. Yes, Robinson.

15 Q. I'm sorry, Kerrie Robinson. Did she tell you  
16 how to spell her first time?

17 A. I think it's K-E-R-R-I-E.

18 Q. Okay. This conversation is important to me  
19 because I represent Concentra and so I need to know and  
20 be able to investigate this. Tell me exactly again.  
21 You called her. And tell me what you told her and what  
22 she said to you again if you don't mind.

23 A. I pretty much told her everything I told you,  
24 how it happened, what happened. I told the person that  
25 was on the phone that answered first, and she was the

1 one who answered so I knew she had to be somebody that  
2 was high in the company or a supervisor or somebody like  
3 that.

4 Q. We're talking about Kerrie?

5 A. Yes. And when she got on the phone, I  
6 explained the whole thing to her, what had happened.  
7 The lady told me to pull my underwear down. I said I'm  
8 calling you to see -- when I get through talking to you  
9 I'm going to call DOT. I said I'm calling you to see if  
10 the DOT changed or not. I said because this lady did  
11 something to me that I felt like was inappropriate. I  
12 went on and explained it to her, the same thing.

13 Q. And she said to you what?

14 A. That she violated me, and that's a violation of  
15 DOT. She said violated my rights and that's a violation  
16 of DOT.

17 Q. Okay. Anything else that you said on that  
18 phone call to Kerrie? I think you said you told her  
19 Deanna was going to call her.

20 A. I did.

21 Q. Okay. Anything else that you remember from  
22 that call?

23 A. No, basically that was it. Besides I told her  
24 that I was going to sue Concentra clinic because I  
25 already knew it was wrong.

1 Q. Okay. Did you ever talk to anybody at  
2 Concentra again after this call with Kerrie?

3 A. No.

4 Q. Okay. And how did you know Deanna was going to  
5 call her? When did you first talk to Deanna about what  
6 happened to you at the clinic?

7 A. I don't know how many days. I had to just  
8 start asking people.

9 Q. What do you mean? Asking them what?

10 A. Have anything like that happened to them?

11 Q. And you asked that of Deanna?

12 A. Yes.

13 Q. And she said yes?

14 A. I knew she had went to the doctor like a month  
15 or a couple of weeks before me. So that's why I asked,  
16 and that's how I found out it happened to her more than  
17 one time.

18 Q. Okay. Tell me what you found out from Deanna  
19 when you say more than one time. Tell me what she told  
20 you.

21 A. That it happened to her twice.

22 Q. By the same doctor?

23 A. Yes.

24 Q. Okay. Do you know when the other incident was?

25 A. All I know, since it was like two years apart,

1 I think it happened like in 2011 and 2013.

2 Q. Okay. Are you and Deanna friends who socialize  
3 outside of work?

4 A. Somewhat but not all the time.

5 Q. Okay. So she's a casual friend?

6 A. Yes.

7 Q. Okay. And you said you talked to your area  
8 director at Plano ISD. Who is that?

9 A. Andrew Foster.

10 Q. Okay. Did you call the DOT then after you  
11 talked to Kerrie?

12 A. No, I did not.

13 Q. Did you call any other person or company about  
14 this after speaking to Kerrie?

15 A. Just her.

16 Q. Okay. Now, I know you went to see a therapist;  
17 correct?

18 A. Yes, I did.

19 Q. Okay. And I have her records. Is it Elena  
20 Frolov?

21 A. I call her Elena.

22 Q. How did you come to find her?

23 A. I had her once before --

24 THE WITNESS: Do I have to answer?

25 Q. (BY MS. STIMMEL) I'll get to see all of your

1 medical records, all of your psych records and therapy  
2 records.

3 A. I seen her when I was out for my shoulder being  
4 hurt. I think the year before last. I think I came  
5 back last May.

6 Q. And why did you see her about a shoulder  
7 injury?

8 A. They want us to see somebody and make sure that  
9 we're okay before we go back to work because being all  
10 stressed out and being off and money not really fitting  
11 the bills and all of that.

12 Q. How many times did you see her for that  
13 prior --

14 A. I can't tell you. You've got to get that  
15 information from her. I don't know.

16 Q. Are you saying Ms. Washington that the first  
17 time you saw Elena Frolov was by a referral from Plano  
18 ISD?

19 A. No.

20 Q. I thought you said they want us to see somebody  
21 so I thought they referred you.

22 A. No. I was talking about the job before you  
23 come back when you're going through physical therapy  
24 because my shoulder was messed up.

25 Q. So did anybody recommend her to you?

1 A. Doctor -- what is his name? Dr. Adair.

2 Q. Can you spell that for me?

3 A. I think it's A-D-A-I-R.

4 Q. Okay. What kind of doctor is Dr. Adair?

5 A. He's a physical therapist for like a  
6 chiropractor or something like that.

7 Q. All right. So you went to see Ms. Frolov  
8 because you knew her. This is somebody you decided to  
9 see; correct?

10 A. Yes.

11 Q. And why did you decide to see her?

12 A. Well I probably would have been comfortable  
13 talking to her about something like that and plus she's  
14 a female.

15 Q. Did you recommend her to Deanna Jones?

16 A. Yes.

17 Q. Okay. And tell me what happened during the  
18 sessions. I mean, what kind of therapy did you receive  
19 and things like that?

20 A. As far as about my shoulder?

21 Q. No, ma'am. When you went to see Ms. Frolov  
22 about this incident?

23 A. Oh, okay. We just talked about what happened  
24 to us during this process or whatever, and she was  
25 making sure that we were okay and I guess what stage of



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1 mind we were in or whatever because it kind of really  
2 jacked us up.

3 Q. When you say jack you up, I know what that  
4 means but tell me some -- if you're sitting here today  
5 and say Linda, this is what I experienced after the  
6 session with this doctor on the hernia exam. These are  
7 the things I experienced whether it's a nightmare or  
8 whatever. Can you tell me what you experienced that you  
9 think was caused by this session with the doctor?

10 A. Just really feeling uncomfortable, at ease.  
11 You kind of feel like you did something wrong when you  
12 didn't and that's one of the things that she kept  
13 reminding us. It's nothing that we did.

14 Q. Okay. Were you concerned that maybe you gave  
15 out some signals that you were maybe a lesbian?

16 A. I doubt that.

17 Q. That wasn't one of your concerns. When you  
18 said that I wasn't sure what you meant.

19 A. No. When you see the way I am, there's nothing  
20 gay about me so that would never come from me.

21 Q. And I agree. You're dressed very lovely today  
22 and so that's what I just didn't understand. When you  
23 said I wanted to see if I had done something wrong, I  
24 don't know what you mean by that.

25 A. I can't explain it. It would just have to

1 happen to you for you to feel the way I felt. So I  
2 can't really explain that. It just messes your head up.

3 Q. Okay. Did Ms. Frolov help you?

4 A. Yes.

5 Q. Did she give you medication or was the help  
6 through being able to talk to her about it?

7 A. Just talk to her.

8 Q. Did she help you? I mean, did you feel like  
9 that therapy was a success?

10 A. Yes.

11 Q. As you sit here today, do you have any other  
12 appointments to see a therapist of any kind about this  
13 incident?

14 A. No.

15 Q. As you sit here today, do you feel like you're  
16 better and you've been able to deal with those feelings  
17 that made you uncomfortable?

18 A. I think about it every once in a while. It  
19 might cross me. It's something that's not going to ever  
20 go away.

21 Q. You think it's better but it's not going to go  
22 away?

23 A. Yes.

24 Q. Have you done any other thing like see any  
25 other therapist or had to see any other doctor that you

1 relate to this incident with the hernia exam?

2 A. No, she was the only one.

3 Q. All right. I think that's all the questions I  
4 have for now. I just needed to learn more information,  
5 and I appreciate you talking to me and giving me more  
6 information so we can assess the matter.

7 A. Thank you.

8 Q. Thank you so much.

9 MS. STIMMEL: I'll pass the witness.

10 MR. MATHIAS: We'll reserve for trial if  
11 need be.

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1 STATE OF TEXAS )

2 COUNTY OF DALLAS )

3

4 This is to certify that I, Natasha Spoerl,  
5 a Certified Shorthand Reporter duly commissioned and  
6 qualified in and for the State of Texas, reported  
7 stenographically by machine shorthand the proceedings  
8 had at the time and place set forth, and that the above  
9 and foregoing pages are a true and accurate transcript  
10 of the deposition of Bennie Washington.

11 CERTIFIED TO BY ME on this the  
12 7th day of August 2014.

13

14

15

16

*Natasha Spoerl*

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FAX (973) 881-7666

0 KERRIT ROBINSON  
(973) 364-8108

## CONTRACT OF EMPLOYMENT

STATE OF TEXAS

)

)

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS

)

The undersigned ("Client") hereby constitutes, appoints and employs Brian R. Arnold, Attorney at Law, also doing business as Brian R. Arnold & Associates, Attorneys at Law (hereinafter referred to collectively as "Attorneys"), as attorney at law and in fact, to investigate, prepare and prosecute any claim or lawsuit for damages, personal injuries and/or property damages, suffered by: **BENNIE WASHINGTON**

Said attorneys are hereby authorized to make claim, and if necessary, to bring a lawsuit against: **All wrongful parties**, or any person, firm, or corporation that is legally responsible for the occurrence identified above, and to prosecute said claim by suit through all courts having proper jurisdiction. This Contract of Employment is assignable or otherwise transferable solely to a duly licensed attorney associated with and approved by the attorneys herein. The undersigned shall receive notice of such assignment or transfer. Attorneys reserve the right to rescind this contract.

The undersigned also hereby sells, transfers and conveys, and agrees to pay and deliver to said attorneys:

(1) 33-1/3% of whatever amounts may be recovered or collected from any party before filing suit, as a result of damages sustained on the occasion identified above;

(2) 40% of whatever amount may be recovered or collected from any party subsequent to the commencement of an action in a court of competent jurisdiction but before trial;

(3) 45% of whatever amount may be recovered or collected from any party if a settlement is reached or an award rendered after jury selection begins at trial or after opening argument if trial is without a jury;

(4) If an appeal is taken by either party from the trial court, the above attorney's fee percentage shall increase to 50% and;

(5) The above percentages shall be applied to the gross amount recovered or collected and shall be computed and paid prior to the payment of any other fees, expenses, or bills, etc. Recovery or collection includes but is not limited to funds collected from any party or their representatives by compromise and settlement, payments of any claims, funds obtained which relate to employment of this firm pursuant to this contract of employment, liability and/or uninsured/underinsured motorist, personal injury protection, medical payments coverages and any additional insurance policies found in effect. If any claims are satisfied by a structured settlement (whereby a recovery is paid over a period of time rather than a lump sum), it is agreed that the present value of such settlement based upon its actual cost shall be employed as the basis for the computation of attorney's



fees and, to the extent possible, all attorney's fees shall be paid at the time such settlement is first funded.

In no event shall this cause of action be compromised and settled by said attorneys without the oral or written consent of the undersigned or the legal representative thereof.

Said attorneys are hereby given a lien on the cause of action on all judgments, funds, or property recovered or received by virtue thereof, as security for the payment of attorney's fees set out above and any expenses or money that may be advanced by said attorneys at said attorney's discretion. Said attorneys may employ, at their discretion, medical experts, technical experts, investigators, and associate counsel to assist in the prosecution of the undersigned Client's claim, with such expenses and costs being paid by the Client as further set out herein. It is further agreed that the undersigned will bear all expenses properly incurred in the investigation, preparation and prosecution of this claim or lawsuit, including but not limited to those costs and expenses previously enumerated, court costs, deposition fees, witness expenses, expenses for photographs and exhibits, medical record copies and medical affidavit fees, medical narratives, photocopies, fax charges, courier fees, overnight delivery fees, postage, reasonable personal and travel expenses incurred by attorneys in advancing the undersigned Client's cause and any other expenses, shall be billed to the Client or advanced by Client within fifteen (15) days after request by attorneys. Client agrees to indemnify and hold Attorneys harmless from any liability arising from the aforementioned expenses and agrees that he/she is solely responsible and liable for any such costs, debts or related expenses. If not paid at the time incurred, said costs shall be reimbursed to the attorneys out of the amount collected in the event of settlement or judgment if the attorney so chooses or same may be billed directly to the Client. Said expenses are over and above attorney's fees and shall be computed and paid prior to (with the exception of attorney's fees) the payment of any other fees, expenses, or bills, etc. Said attorneys are vested with full right to collect and pay all attorney's fees, monies, and expenses then owing and incurred by Client and/or on behalf of Client. In the event that said attorneys are compelled to pursue collection remedies, intervene in a pending lawsuit or initiate any subsequent lawsuit in order to recover the fees, costs, and/or expenses for services rendered or incurred and/or advanced and due attorneys, Client additionally agrees to pay the pre-litigation and post litigation fees, costs, and/or expenses accruing in favor of the attorney, attorneys, agency, representatives or firms employed by attorneys to recover the fees, costs, and/or expenses due pursuant to the terms of this contract, including 1.5% interest per month (18% per year) on any unpaid amount/balance. Additionally, Client agrees to pay any and all court costs and expenses connected with the pending lawsuit or any subsequent lawsuit as described above.

The parties expressly understand that if no recovery is obtained on the claim which is the subject of this agreement, attorneys' will make no charges for attorneys' time, services or fees unless otherwise agreed. Regardless, of whether there is a recovery or not, Client understands and agrees that he/she is responsible for the payment and/or reimbursement of costs and expenses advanced or incurred on his/her behalf and Attorneys retain the right to pursue the collection of same as set out hereinabove.

Attorneys are hereby appointed agent and attorney, in fact, to execute in the name or and on behalf of the undersigned all necessary releases, drafts, checks, endorsements,

instruments, powers of attorney, authorizations, pleadings/documents filed with the Court, receipts, releases, settlements, discharges, judgments or recoveries of whatever nature requisite to the disposition of this matter.

Attorneys make no predictions or promises as to the outcome of Client's case, and further Client expressly acknowledges that all statements of attorneys on these matters are statements of opinion only. If investigation indicates that Client's case does not have merit or there is no insurance or no liability on the part of defendants, or further pursuit of Client's case is not economically feasible, Attorneys may withdraw from representation and cancel this agreement by sending written notice to Client. Attorneys may also cancel if Client is uncooperative. Client agrees to immediately reimburse Attorneys for any and all expenses incurred or advanced by Attorneys on Client's behalf in the event of withdrawal or cancellation. Attorneys may deduct from proceeds to Client any sums owed Attorneys at the time of final settlement or from funds received on this or any other matter being handled by Attorneys for Client.

Client agrees to keep the Attorneys advised of Client's whereabouts, to cooperate in the preparation of the case and to be present upon reasonable notice. Attorneys agree to keep Client reasonably informed on the progress of the Client's claim. Attorneys reserve the right to withdraw from representation of Client in the event Client fails to keep Attorneys apprized of Client's whereabouts, change in address and/or phone number or otherwise fails to cooperate in any way. In the event of withdrawal, it is expressly agreed between the parties hereto that Attorneys shall not release Client from his/her contractual obligations herein and shall have a lien for Attorneys contractual fees and shall be reimbursed immediately for costs expended. In the event Attorneys contractual fees can not be determined, then Client agrees that Attorneys shall be compensated for the reasonable and necessary time and expenses incurred by attorneys in handling Client's case at the Attorneys' current hourly billable rate.

In the event said Attorneys issue letters or execute lien documents on behalf of the undersigned Client to either delay collection procedures, protect Client's credit or obtain medical treatment in relation to and during the processing of Client's claim by Attorneys, the undersigned Client hereby agrees to indemnify and hold harmless Attorneys from any liability arising from the issuance of said letters and/or documents and agrees that he/she is solely responsible and liable for any such liens, medical bills, debts or related expenses which are covered by said letters and/or documents.

Unless Client requests otherwise, Attorneys may utilize exhibits, documents and materials developed in this case as teaching and demonstration aids in lectures and professional presentations. In this regard Client's name will be kept strictly confidential. After the case is over, Attorneys may destroy Client's file.

The validity of this agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas, U.S.A. and shall be performable in Dallas County, Texas. In the event any action at law or in equity is brought to enforce or interpret the provisions of this agreement Client agrees that Attorneys shall be entitled to reimbursement of reasonable attorney's fees in addition to any other relief which Attorneys may be entitled.

As required by the rules of the State Bar Act, the following notice is required to be provided to all clients of attorney practicing law in the state of Texas: The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar Office of General Counsel will provide you with information about how to file a complaint. For more information, please call 1-800-932-1900. This is a toll-free phone call.

**READ CAREFULLY: THIS IS YOUR CONTRACT. IT PROTECTS BOTH YOU AND YOUR ATTORNEYS AND WILL PREVENT MISUNDERSTANDING IN THE FUTURE. IF YOU DO NOT UNDERSTAND IT, OR IF IT DOES NOT CONTAIN ALL THE AGREEMENTS, PLEASE DO NOT SIGN THIS CONTRACT.**

I have read the terms and conditions stated herein and fully understand same.

10-22-13  
Date

Bennie Ripton Washington  
Signature: **BENNIE WASHINGTON**

Accepted: BRIAN R. ARNOLD & ASSOCIATES

by: \_\_\_\_\_  
Attorney at Law

## NEW CASE SET UP SHEET PERSONAL INJURY CASES

Client name: Bennie Washington Date Opened: 10/28/13

Case Type: PI (MedMal) Referral Source: PPL

1. Please Set up file on ABACUS.

2. Please prepare the following file labels:

Client last name, first name PI DOL: 9-70-13

A. CORRESPONDENCE

B. MEDICAL

C. COSTS

D. ACCIDENT REPORT

E. PLEADINGS

F. DISCOVERY

G. MOTIONS/HEARINGS

H. EVIDENCE

I. WORK

3. Please CALENDAR SOL on ABACUS.

9/20/15